

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MARK ANTHONY ORTEGA,

Plaintiff,

vs.

JOHN DOE,

Defendant.

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SA-24-CV-00662-FB

ORDER

Before the Court is the above-styled cause of action, which was referred to the undersigned for all pretrial proceedings. Plaintiff, proceeding *pro se*, filed this case against Defendant John Doe on June 10, 2024. The record reflects that the Court granted Plaintiff's *pro se* motion for leave to serve a third-party subpoena to obtain the identity of Defendant on July 23, 2024. (Order [#5].) The time for service under Rule 4(m) of the Federal Rules of Civil Procedure thereafter expired without any filing of a return of service on the docket. The Court issued a Show Cause Order on December 5, 2024, requiring Plaintiff to show cause why this case should not be dismissed for lack of prosecution and failure to serve Defendant. Plaintiff responded to the Show Cause Order [#7], requesting additional time for service and claiming that he sent two subpoenas to the Clerk of Court for signature that were never signed or returned to Plaintiff. Plaintiff submitted copies of the two proposed subpoenas with his show cause response [#8, #9].

Rule 4(m) permits this Court to extend the time for service upon a showing of good cause. Based on Plaintiff's representations and in light of his *pro se* status, the Court will extend

the time for service, direct the Clerk to sign the subpoenas, and direct the Clerk to mail the signed copies of the subpoenas to Plaintiff at his address on record so that he can attempt to identify the proper Defendants for service of process.

Upon receipt of the signed subpoenas, Plaintiff must have them served. Rule 45(b)(1) of the Federal Rules of Civil Procedure requires that a subpoena be served by a person who is at least 18 years old and not a party. Accordingly, Plaintiff, as a party, may not serve the subpoenas. Plaintiff may hire a private process server to serve the subpoenas. To allow Plaintiff one final opportunity to serve the subpoenas and ultimately identify the proper Defendants in this case and to serve them with process, the Court will extend the time for service by an additional 60 days.

IT IS THEREFORE ORDERED that the Clerk sign the subpoenas submitted by Plaintiff [#8, #9] and return the signed copies to Plaintiff at his address on record.

IT IS FURTHER ORDERED that Plaintiff serve the subpoenas in accordance with the requirements of Rule 45 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that, once Defendants are identified, Plaintiff must fulfill his obligation to effectuate service of process on Defendants by requesting issuance of Summons from the Clerk and then serving Defendants with a copy of the Original Complaint and Summons in compliance with Rule 4 of the Federal Rules of Civil Procedure.

IT IS FINALLY ORDERED that the time to complete all of these steps and to serve Defendants with process is hereby extended to **March 31, 2025**.

IT IS SO ORDERED.

SIGNED this 30th day of January, 2025.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE